LOW PUI HENG v. THAM KOK CHEONG & ORS.

[O.C.J. (Ong J.) October 10, 1964]

[K.L. — Civil Suit No. 807 of 1962]

Partnership — Taking-over by limited company — Dissolution of partnership — Illiterate dormant partner not consulted — Partnership at will — Partnership assets — Sale and winding-up — Company taking-over — Position of.

This action arose out of the taking-over of the business and assets of a trading partnership by a limited liability company formed for the express purpose of acquiring the partnership business as a going concern. The plaintiff and the first three defendants were the partners and the fourth defendant was the limited company formed by the first three defendants for this purpose. The second and third defendants did not defend this action.

The plaintiff, an illiterate old woman, was at all material times a dormant partner while the first three defendants played an active part in the management of the business. She claimed for a declaration that: (i) the partnership was still subsisting; (ii) the purported acquisition of the partnership business of the company was invalid; (iii) certain lands held by trustees in trust for the partnership remain assets of the partnership and the company was not entitled to call for a transfer thereof; (iv) from the date of its incorporation the company held and managed the partnership business in trust for the partners. On the evidence the learned judge found as a fact that the plaintiff was never in fact given any notice of dissolution of the partnership, that the assets of the partnership were taken over by the limited company from the first three defendants without her knowledge and consent and that her shares in the partnership were purportedly disposed of by them at a price which was never disclosed to her.

Held: (1) the majority partners' intention to convert the unlimited liability of the partners into the limited liability of shareholders in a company was a matter of which notice must be given to all the other partners; but the partnership in this case being a partnership at will, the plaintiff had no choice but to accept the decision of her partners and the partnership cannot be held to be still subsisting;

(2) in all the circumstances of the case, the plaintiff had been kept entirely in the dark as to the affairs of the partnership till April, 1958, and therefore the sale and winding-up of the partnership assets without her consent was invalid; the majority partners had no power to sell the shares of a dissenting partner and the acquisition and taking-over of the partnership as a going concern was void and inoperative;

(3) the lands held by the trustees in trust for the partnership still formed part of the assets of the partnership;

(4) the defendant company, from the date of its commencing to trade had the management and control of the business and assets of the partnership as trustee for the plaintiff and the first three defendants, and was liable to account to the plaintiff for her shares.

Case referred to:—

(1) *Chapple* v. *Cadell* 37 E.R. 953.

CIVIL SUIT.

T. K. Sen for the plaintiff.

W. D. Bewsher for the 1st and 4th defendants.

Cur. Adv. Vult.

Ong J.: This action is the result of the taking-over of the business and assets of a trading partnership by a limited liability company formed for the express purpose of acquiring the partnership business as a going concern.

The plaintiff and the first three defendants were the partners and the fourth defendant is the company formed by the other three defendants for this purpose. The second and third defendants are not defending this action. The claim of the plaintiff is for a declaration (i) that the partnership is still subsisting, (ii) that the purported acquisition of the partnership business by the company is invalid, (iii) that certain lands held by trustees in trust for the partnership remain assets of the partnership and the company is not entitled to call for a transfer thereof, and (iv) that from the date of its incorporation the company held and managed the partnership business in trust for the partners. The plaintiff further claims in the alternative (a) that, if the partnership had been dissolved, all assets of the firm at the date of dissolution still belong to the partners and (b) that, if there had been a valid purchase of such assets by the company, the plaintiff is nevertheless entitled to an account of the true value thereof at the date of taking-over and to payment of her 9/99th share thereof.

I shall now proceed to set out the facts, although I fear it will not be possible to do so in the smallest possible compass. The business of King Chong & Co., hardware dealers and estate suppliers, was established at Old Market Square, Kuala Lumpur, in 1900 by Tham Chong who died 40 years later. The first three defendants are his sons. The plaintiff is their step-mother, and she is the sole surviving widow of Tham Chong. In 1944 the business of King Chong & Co. passed into the hands of a partnership composed of some sixteen persons who were members of Tham Chong's family and other near relatives. In 1952 there were proposals to convert the partnership into a limited liability company. Those not in favour retired, leaving only the plaintiff and the first three defendants as the continuing partners in 1953. The plaintiff is an illiterate woman, now 63 years old, and she had at all times been no more than a dormant partner. The three other partners took an active part in the management either of the principal business at Old Market Square or the branch at Klang.

King Chong & Company Limited was incorporated on August 25, 1953. The subscribers to the memorandum and articles of association were the first three defendants. Each subscribed for one share of $100. The first of the declared objects of the company was

"To acquire and take over as a going concern the business now carried on in Selangor under the style of King Chong and Company and its branch at Klang known as King Chong Chan, together with all or any of the assets and liabilities and engagements of the proprietors of the business used in connection therewith or belonging thereto, and the directors are empowered to purchase or otherwise enter into any agreement for the purchase of such property on such terms and conditions as they think fit and to carry the same into effect with or without modifications."

At the first directors' meeting held on November 1, 1953, it was resolved that the company should commence trading as from January 1, 1954. At the same time three applications for shares, made by the directors themselves, were considered and 299 shares were allotted to each "as fully paid shares for a consideration other than cash", such allotment being "taken as part discharge of the purchase consideration payable by this company for the purchase of" the partnership business. It was further resolved that the company should acquire the partnership business "on the basis of the vendor's balance sheet as at 31st December 1953, and that the purchase shall be completed as soon as the vendor's 31st December, 1953 balance sheet becomes available."

At the second directors' meeting, held on January 23, 1954, the secretaries reported (a) that a fresh memorandum of charge had been required by the Oversea-Chinese Bank to replace the one previously executed to secure the overdraft account of the old firm, and (b) that "the 1953 accounts of the old firm have not yet been completed." Then a resolution was passed "that the allotment of shares to the vendors be considered when the 31st December, 1953 balance sheet of the old firm is available, and that Madam Low Pui Heng, one of the vendors, be informed accordingly." There is no evidence how the latter part of this resolution was carried out, if at all.

Sixteen months later, on May 27, 1955, the 1953 balance sheet was tabled at the directors' meeting, when it was resolved that the partnership of King Chong & Co. be taken over retrospectively as from 1st January, 1954, on the basis of the said balance sheet. It was further resolved "that the secretaries be requested to send a share application form to Madam Low Pui Heng to enable her to apply for shares in this company". Following a discussion as to the manner of dealing with partners' loans and deposits appearing in the 1953 balance sheet, the directors proceeded to allot to each of themselves a further 300 shares to be set off against their loan and deposit account.

On July 6, 1956, the directors' meeting were next informed by the secretaries that the plaintiff had not responded to the invitation to become a shareholder in the company. Nothing of consequence transpired during the ensuing year and a half, until February 8, 1958, when the defendant company replied as follows to a letter of inquiry from the plaintiff:

(Translation)

"KING CHONG & CO.
6, Old Market Square,
KUALA LUMPUR.

8th February, 1958.

Madam Low Pui Heng,

Your letter has been noted. With regard to your credit balance with the head office at Kuala Lumpur, apart from the monthly withdrawal of $150, there is a balance of $14,387.57 up to the 7th February of this year. As to the total amount you have withdrawn from the Klang branch office, you may find out from enquiries made to the branch office. Wishing you good health,

(Sd) Illegible
(Seal) King Chong & Co. Ltd.
Kuala Lumpur."

At the "Ching Ming" festival of that year — which is the Chinese form of All Souls' Day falling in spring — the plaintiff learned from Chim Long, the second defendant, that the firm had been converted into a limited company and that she had no longer any shares in the business. A younger brother of the plaintiff living in Singapore came to visit her a few months later and, while in Kuala Lumpur, he wrote on her behalf the following letter dated July 9, 1958:

(Translation)

"The General Manager,
King Chong & Co. Ltd.,

I know now that since it became a limited company I have no more shares in it. But as to the sum of over $10,000 left by me, is it kept in the company as a sub-item? Is there any interest, and what is the monthly interest? Please let me know, this is important. Other matters may be discussed later.

With best regards from,

Low Pui Heng (In Chinese)".

On July 11, 1958 the defendant company replied thus:

"Madam Low Pui Heng,

Your letter has been noted. After this company was reorganised into a limited company, the company's secretary wrote you a letter enquiring you what measures to be taken regarding your credit balance. We do not know if you have made any reply. That is why it is not possible for us to reply to the points you enquired. When the directors' meeting is held on the 16th of this month, your letter will be discussed at the meeting, after which a reply letter will be given to you.

Wishing you sound health,

(Sd) Illegible
(Seal) King Chong & Co. Ltd.
Kuala Lumpur."

The directors' meeting referred to in the above letter was in fact the fourth ordinary general meeting, held on July 16, 1958. The first defendant then tabled the plaintiff's letter of July 9, 1958, and a resolution was passed

"that interest at 4.8 per cent per annum be credited to her account as from 1st July, 1958."

On September 18, 1958, the plaintiff's brother wrote on her behalf again as follows:

"To, Manager of Chop King Chong,

I only realised, after receiving your letter yesterday, that the sum of over $10,000 deposited by me was given an interest of $4.80 per $1,000 commencing from July this year. It is noted that several years had elapsed since King Chong changed to a limited company. Firstly, why is it that interest was given from July this year and not from the time of the change to a limited company? Secondly, is the available interest to be drawn every month? Personally, I consider that in any matter prior consent should be obtained from the opposite party before it is carried out, only then would it be fair. In this matter, I am afraid that if I did not raise any question, it would be difficult for me to get any benefit at all. Now I wish to withdraw a cash of $2,000 within this week, and it may be deducted from my credit balance. Is it possible? And also, as to the few points mentioned above, please give me a detailed explanation.

Wishing you prosperity,

From,

Low Pui Heng."

No reply appeared to have been sent to the above letter; apparently all parties concerned slept on it. The plaintiff's request for withdrawal of $2,000 was not complied with. Finally, on October 5, 1962, four years later, the plaintiff commenced this action. Payments to her by the company had been stopped, since January 1962.

I have pondered long and carefully over this case from different angles and find it one of no little difficulty. There are gaps in the evidence, leaving much to inference, which has to be drawn from the known facts and circumstances. I have accordingly come to the conclusion that the events which took place must be viewed in the light of the surrounding circumstances in order that a just appreciation can be made of the conduct of the parties concerned.

To start with, it will have to be borne in mind that King Chong & Co. had been a family business for over half-a-century. After the death of its founder, the business came under the management of his sons. For the past 20 years, since the inception of the partnership, the plaintiff had been a mere sleeping partner. During all this time she had been living at 13-15 Jalan Ampang, the premises used as a store by King Chong & Co. Since her husband's death she had been receiving, for her own maintenance, a monthly allowance as a beneficiary of his estate and subsequently her drawings as a partner of the firm. From her demeanour and appearance, from the humble nature of her abode and from the surrounding circumstances generally, it is clear that this secondary widow in a Chinese family was quite content with her lowly status and to leave well alone so long as her means of subsistence were not extinguished. For their part I think the men found her quiescence not at all unsatisfactory.

Such then was the state of affairs when the first three defendants decided to convert the partnership into a limited company. There is no doubt whatsoever that, when this decision was made, the plaintiff was never consulted, because her consent had been taken for granted. She is not only illiterate but also unversed in business. Hence it is not surprising if it was thought that any explanation to her of the mechanics and legal consequences of the take-over would be a waste of breath. Here I think the defendants fell into a common error of the layman in carrying out complicated legal transactions without proper professional advice. They must therefore take the consequences, that is to say, the first and fourth defendants, since the plaintiff's claims are not contested by the other two.

I find that the minutes of the directors' meeting of May 27, 1955, contained the first and only intimation which the plaintiff could possibly have received of a *fait accompli*. This was when the secretaries were instructed to send her an application form whereby she could apply for shares in the company. I presume that the secretaries did send her the form in the ordinary way, by post, but there is no evidence whatsoever that, even if the same were delivered at her address, she was aware of the contents. There is no evidence that it was sent by registered post and hence no proof of delivery. In any event I cannot take for granted, in the absence of any evidence, that the application form was accompanied by any letter advising her that she had to elect, then or never, to convert her shares in the partnership into shares in the limited company, if she intended to retain any interest in the business. In saying so, I have not overlooked either the resolution of January 23, 1954, that the plaintiff should be informed — though it is not clear what the information was nor whose duty it was to convey it to her — or the letter of July 11, 1958, by the company referring to some letter from the company's secretaries, which was not in evidence. The secretaries were not called, nor any copy of such letter, if in existence, produced. It has also to be remembered that a letter in English, addressed to an illiterate Chinese woman, must impose a heavier onus of proof on any party alleging that she had notice of its contents, where her knowledge is a material fact.

In the result I find first, that the plaintiff was never in fact given any notice of dissolution of the partnership before the "Ching Ming" festival of 1958; secondly, that the assets of the partnership were taken over by the company from the first three defendants without her knowledge and consent; thirdly, that her shares in

the partnership were purported to have been disposed of by them at a price which had never been disclosed to her.

I am fortified in the above decision by the whole of the further and better particulars of the statement of defence of the first and fourth defendants, delivered on December 19, 1963, and in particular, the following:

"UNDER PARAGRAPH 3:

(i) The partnership was dissolved with effect from the 1st January, 1954.

(ii) The dissolution was effected by the decision of the first, second and third defendants, who formed a majority of the partners and who were jointly and severally entitled to dissolve it at any time since the partnership was one at will.

(iii) The fact of the dissolution was evidenced by a minute of the meeting of the partners held on 27th April, 1955 . . . "

"UNDER PARAGRAPH 6:

(ii) The decision to transfer the assets of the partnership to the fourth defendant was taken by the first, second and third defendants who were entitled to bind the plaintiff since they formed a majority of the partners and the decision as to the consideration to be given by the fourth defendant for such transfer was also taken by the first, second and third defendants who were entitled to bind the plaintiff for the reasons abovementioned. The plaintiff has been aware of the decisions taken by the first, second and third defendants and has acknowledged them and acquiesced in them and has since the 5th January, 1954 ratified them in that she has since that date accepted from the fourth defendant payments made to her for the purchase of her interest in the partnership and the first and fourth defendants maintain that the plaintiff's claim is barred by laches and by limitation."

As regards the allegations in the last sentence quoted above, I would state that I flatly reject the evidence of the company's book-keeper as proposterous and clearly untrue.

It is true, as the first and fourth defendants allege, that the partnership was a partnership at will. But the first evidence of its dissolution was the "minute of the meeting of the partners held on 27th April, 1955." It is evident that the plaintiff knew nothing of this meeting, and it is not even suggested that she had any notice thereof. I therefore find that the plaintiff, through no fault on her part, was never informed of her partners' intention to dissolve the partnership until Chim Long told her in March or April 1958. The plaintiff, in her reply, would seem to have fixed the "Ching Ming" festival as having fallen on April 6, 1958.

The law on this point is clear. Neither the English Partnership Act, 1890, nor the provisions in Chapter X of the Contracts (Malay States) Ordinance, 1950, profess to codify the law on partnership. Save where there are express provisions of law, the rules of common law and equity apply. English law provides, by section 26(1), for notice of intention to dissolve a partnership at will being given "to all the other partners". There is no corresponding provision in our Contracts Ordinance, but, in the special circumstances of this case, as well as on principle, I hold that the majority partners' intention — to convert the unlimited liability of the partners into the limited liability of shareholders in a company — is a matter of which notice must be given to all the partners. On this point I would read section 26(1) of the Partnership Act as implied in paragraph (e) of section 206 of our Contracts Ordinance, that "no change in the nature of the business of the partnership can be made except with the consent of all the partners." For practical purposes, then, I propose to fix April 1, 1958 (instead of April 6) as the date when notice of dissolution of the partnership was communicated by Chim Long to the plaintiff. This being a partnership at will, the plaintiff had no choice but to accept the decision of her partners. I am therefore unable to declare the partnership to be still subsisting as claimed.

I turn now to the second head of claim: that the purported acquisition of the partnership business by the company is invalid. On this point the evidence reveals a state of grave confusion. This is, of course, due primarily to the fact that the same three persons were acting as and for both vendors and purchasers. The utmost laxity over the transaction stood no risk of being called in question by anybody. At the first directors' meeting of November 1, 1953 it was resolved (a) that the company should commence trading on January 1, 1954 and (b) that the company should acquire the partnership business on the basis of the vendors' balance sheet on December 31, 1953, and that the purchase should be completed as soon as such balance sheet became available. This balance sheet was not ready until May 27, 1955. On that date it was resolved "that the partnership of King Chong & Company be taken over as from 1st January, 1954, on the basis of the annexed statement of assets and liability". This raises the question: With what assets and stock-in-trade had the company been trading since January 1, 1954? The answer plainly is that, to all intents and purposes, what took place on January 1, 1954 was that, upon the partnership name, was added the one word "Limited" and all the firm's stock-in-trade was appropriated by the company before its value could be ascertained. There was only a notional delivery and taking-over because the same business continued without any break, and in the same promises under the same management. This applies, of course, to the stock-in-trade and movables only.

Three pieces of land, however, were also among the assets of the partnership. They are the lands and premises in Klang held under

Certificates of Title Nos. 6559 and 6560 and Grant for Land No. 3071. The first two are still registered in the joint names of the second defendant and one Tham Chim Kuai as trustees, holding the same in trust for the partners of King Chong & Co. Grant No. 3071 is likewise registered in the joint names of the third defendant and the same Tham Chim Kuai as trustees for the partners. On January 3, 1950 a charge, No. 29426, had been executed over this Grant by the trustees in favour of the Oversea-Chinese Banking Corporation, Limited, as security for advances to partnership up to the limit of $18,000. Notwithstanding the reported request made by the Bank in January 1954, for a fresh memorandum of charge to secure advances thereafter to be made to the company, the old charge stands. This land, therefore, still remains in fact an asset of the partnership. I am at a loss to understand why the bank's request was not complied with, unless the trustees (one of whom had no interest in the firm or company) were not prepared to recognise any change in the beneficial ownership without the express consent of the plaintiff herself. I can discover no other possible reason. The partnership assets had admittedly been handed over to the company without the plaintiffs consent.

It is stated, under paragraph 2 of the further and better particulars of defence, that in Kuala Lumpur Civil Suit No. 24 of 1961 the fourth defendant company obtained an order that the trustees in whose names the lands stood should transfer them to the company. In the meantime, however, the plaintiff had lodged a caveat on November 22, 1962, against the registration of any dealings affecting these lands and it is quite clear that the order is liable to be set aside if this plaintiff is herein declared to be an interested party who had not been served in proceedings affecting her interest in those lands.

It is a notorious fact that banks do not give advances beyond 50 to 60 per cent of the full market value of the property held by them as security. Now, the charge over Grant No. 3071 was for a maximum advance of $18,000, and it was executed as long ago as January 1950. Hence the market value of this property in 1958, on dissolution of the partnership, should have been very considerably in excess of $40,000, even at a conservative estimate. Yet, in the balance sheet of December 31, 1953, all the immovable property of King Chong Chan, Klang, was priced "at cost", that is to say $14,500 (see pages 7 and 11 of the agreed bundle "A"), inclusive of the two vacant lots of Town land which, also, must be of considerable value. I do not know what the term "at cost" could possibly mean, because the two vacant lots held under the certificates of title had belonged to Tham Chong before his death in 1940, while the charged property (which the evidence indicates to be premises No. 15, Station Road, Klang) was purchased by the representatives of Tham Chong during the middle of the Japanese Occupation, on February 17, 1943. For the above reasons I am abundantly satisfied that the lands at least were grossly undervalued. There is nothing in the balance sheet of December 31, 1953 to indicate how the "current assets" were valued, but the 1954 balance sheet states that the current assets were then valued in respect of stock-in-trade "at the lowest cost of market value as certified by the management". In view of the gross undervaluation of the immovable property I think it is pardonable if I look askance at the valuation of the other assets, which was also carried out for the express purpose of a take-over by the company, and for that very reason, could have been written down far below the true market value.

It has to be remembered that the 1953 balance sheet was only produced to the directors' meeting almost a year and a half after the date of the purported dissolution of the partnership. Hence there can be no suggestion that that balance sheet was ever shown to the plaintiff. It naturally follows that she never had an opportunity of discovering what her shares in the partnership were really worth, even if she were agreeable to a sale. The blunt fact is that the sale price had never been disclosed to her, much less the true value of her share. Indeed, her letters of inquiry shortly before February 8, 1958 (referred to in p. 16 of "A") of July 9, 1958 and September 18, 1958 fully bear out that no one had ever taken any pains "to render true accounts and full information of all things affecting the partnership" to her. All the evidence, in fact, points clearly to an undervaluation of the assets of the partnership taken over by the company. In the process of conversion the plaintiff has thereby been the sole loser.

The admitted share of the plaintiff under the 1953 balance sheet was $22,066.38. Why was she not paid in full when the value of her share was determined on May 27, 1955? Why was she again denied payment when she asked for only $2,000 on September 18, 1958? And why were her moneys detained on deposit, without her consent, free of any interest until after July 1, 1958?

I find it impossible to reconcile the above facts with the duty of utmost good faith and fair dealing which is owed by every member of a partnership towards every other partner. I am satisfied that, in all the circumstances of this

case, the plaintiff had been kept entirely in the dark as to the affairs of the partnership till April 1958, and that the sale and winding-up of the partnership assets without her consent was invalid. *Chapple* v. *Cadell* [1] is authority for the principle that the majority partners have no power to sell the shares of a dissentient partner.

As to the defence of laches and acquiscence, the relative status of the plaintiff and her active partners over the long period of years, the trust she reposed in them, their failure to observe the utmost good faith and fair dealing towards her, their failure to make full disclosure of all material facts, their gross under valuation of the assets of the partnership, the continuation of monthly payments by the company until January 1962 without disclosing to her, for the first four years, that they were capital repayments, and the fact that she is illiterate and ignorant in business matters, are all material facts which in my opinion entitle her to relief.

In conclusion I shall merely quote the summary of the law which applies upon the dissolution of a partnership, set out in page 621 of *Lindley on Partnership* (12th Ed.) as follows:

"(1) That each partner has a right to have the partnership assets applied in liquidation of the partnership debts, and to have the surplus assets divided.

(2) That the right of each partner is to insist on a sale of the partnership assets; there being, in the absence of special circumstances, no right in any partner to have the value of his own or of any co-partner's share determined by valuation, or to have the partnership property, or any portion of it, divided in specie.

(3) That each partner has a right to insist that nothing further shall be done, save with a view to winding up the concern.

I accordingly declare (1) that the partnership was dissolved on April 1, 1958; (2) that the acquisition and taking-over of the partnership as a going concern was void and inoperative; (3) that the lands held under Klang C.T. Nos. 6559 & 6560 and Grant No. 3071 still form part of the assets of the partnership; (4) that the fourth defendant company, from the date of its commencing to trade on January 1, 1954, had the management and control of the business and assets of the partnership as trustee for the plaintiff and first three defendants, and should account to the plaintiff for her share.

I shall hear counsel further before making and giving the order and directions for winding up the affairs of the partnership, and before making the order as to costs.

Order accordingly.

Solicitors: *T. K. Sen & Co.; Skrine & Co.*

BACHAN SINGH v. PUBLIC PROSECUTOR

[A.Cr.J. (Ong J.) October 28, 1964]
[K.L. — Criminal Appeal No. 46 of 1964]

Criminal Procedure — Sentence — Non-compoundable offence — Injured party willing to compound — Consideration of in assessing sentence.

Although the offence charged is not compoundable the fact that the injured party was ready and willing to compound ought to have been taken into consideration when considering the propriety of any sentence.

MAGISTRATE'S CRIMINAL APPEAL.

Lall Singh Muker for the appellant.

Nik Saghir bin Mohd. Noor (Deputy Public Prosecutor) for the respondent.

Ong J.: The appellant was sentenced, on his own plea of guilty, to 18 months imprisonment by the President of the Sessions Court at Klang, for an offence of voluntarily causing hurt to a compatriot, Saudagar Singh, with a parang, contrary to section 324 of the Penal Code. His appeal is against sentence.

Although the offence charged is not compoundable, I think the fact that the injured party was ready and willing to compound ought to have been taken into consideration when considering the propriety of any sentence.

I have been informed by Mr. Lall Singh, counsel for the appellant, that the two men had been neighbours, that their quarrel arose over a trifling matter, that the complainant had since returned to India for good and that the appellant's continued employment as a dredge watchman might be jeopardised by such a long term of imprisonment as 18 months. In particular I have taken into account that a potentially dangerous weapon caused merely a slight injury.

I have therefore allowed the appeal, set aside the sentence of imprisonment and, under section 294 of the Criminal Procedure Code, bound him over in the sum of $500 with one surety for 3 years to keep the peace and be of good behaviour and to appear and receive judgment if and when called upon.

Appeal allowed.

Solicitors: *Lovelace & Hastings.*

MUNICIPAL COUNCILLORS OF MALACCA v. MOHAMED ALI & ANOR.

[O.C.J. (Gill J.) November 14, 1964]
[Malacca — Originating Summons No. 14 of 1964]

Local Government — Municipal Secretary — Appointment of — Liability of Municipal Councillors as trustees — Trustee Ordinance, 1949, ss. 56 and 60 — Municipal Ordinance (Cap. 133), ss. 3, 16, 26, 27 and 29.

This was an application for the determination of certain questions relating to the office of municipal secretary, Malacca. The facts were that the first defendant was originally appointed municipal secretary